

# Order

Michigan Supreme Court  
Lansing, Michigan

September 17, 2008

Clifford W. Taylor,  
Chief Justice

135955 & (17)

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 135955  
COA: 278902  
Kalamazoo CC: 01-000353-FC

DONALD J. KIMBLE,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the January 11, 2008 order of the Court of Appeals is considered, and it is DENIED, because the defendant has failed to meet the burden of establishing entitlement to relief under MCR 6.508(D). The motion to remand is DENIED.

MARKMAN, J. (*concurring*).

Because the trial court refused to allow defendant to present evidence that the complainant's mother had previously made the same kind of unsubstantiated allegations of sexual abuse against the complainant's biological father that the complainant made against defendant under substantially similar circumstances, I continue to be persuaded that defendant did not receive a fair trial. However, because a majority of this Court has already denied leave to appeal on this issue, *People v Kimble*, 470 Mich 871 (2004), and because the issues that defendant raises in this appeal are, in my judgment, meritless, I concur in this order. Nonetheless, I continue to view this case as a miscarriage of justice.



s0910

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 17, 2008

*Corbin R. Davis*

Clerk